

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RANDY RONALDO REYES,

No. C 05-04078 SI

Petitioner,

**ORDER GRANTING CERTIFICATE OF  
APPEALABILITY**

v.

W.A. DUNCAN, Warden,

Respondent.

Randy Ronaldo Reyes, a prisoner of the State of California at Salinas Valley State Prison in Soledad, California, brought a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed August 31, 2006, this Court denied the petition. Petitioner has now filed a notice of appeal, which this Court deems to constitute a request for a certificate of appealability. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).


A judge shall grant a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Section 2253(c)(2) codified the standard announced by the United States Supreme Court in *Barefoot v. Estelle*, 463 U.S. 880, 892-93 (1983), to the effect that “a substantial showing of the denial of [a] federal right” means that a petitioner “must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.” *Id.* at 893 n.4 (internal quotations omitted). The certificate must indicate which issues satisfy this standard, *see* 28 U.S.C. § 2253(c)(3), and the court of appeals is limited to considering only those claims. *See Hiivala v. Wood*, 195 F.3d 1098, 1103 (9th Cir. 1999).

Petitioner has “made a substantial showing of the denial of a constitutional right,” 28 U.S.C. §

1 2253(c)(2), and has demonstrated that reasonable jurists would find debatable, the district court's  
2 assessment with respect to petitioner's second claim. Accordingly, the Court GRANTS a certificate of  
3 appealability with respect to the following issue: whether co-defendant Ruiz's confession was  
4 improperly excluded from petitioner's trial.

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6 **IT IS SO ORDERED.**

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8 Dated: September 25, 2006

  
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SUSAN ILLSTON  
United States District Judge